App F IX 4

Previous References
ml 23-47 (25, 26)
ml 22-45 (40, 42)

Later References

1948-49
(ML)

File No 24-48
Serial Nos 27, 28

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two

P. 13-E

Part B for Oct 48

SUBJECT

Giving back the land acquired from Sri S Don Dhondusa in Doddabelgaa Doddabulkhana village for Charitable purposes

L 3959-60/ D. 18-10-48

Sanctions

To The M.L Govr. Bangalore Calls Mlly. (Through the S Prsdt
" " Comptroller to Govt

3436
Rl

From the Municipal Town Bangalore city
R.C. 244 dated 2-1-48

States that the city Municipal Council has recorded G.O. No L 9289-90/Rl 23-47-26 dated 13-9-47 regarding the grant of land to Messrs Dhondusa in Doddabilalchana Village, for Charitable purposes, with the observation that a Public Trust be formed as already resolved by the Municipal Council and requests orders thereon

In G.O. No L 9289-90/Rl 23-47-26 dated 13-9-47, sanction was accorded to the revised proposals of the Bangalore city Municipal Council in regard to the grant, free of cost, of the four acre and 26 guntas of land in Doddabylatchan Village - to Messrs Dhondusa for charitable purposes, with the observation that it was not necessary to form a public Trust in this behalf, as proposed by the Municipal Council

Flag 'E'

2) While recording the above G.O. the city

3936
/III

Municipal Council has been resolved ~~last~~ at the meeting held on 6-11-1947, as follows —

Recorded with the observation that a public Trust be formed as already resolved by the Municipal Council including the Municipal Commissioner as one of the Trustees so that his presence may be a guarantee to see that this land which is given free of cost will remain a Trust property and the Government addressed accordingly. If the same is not accepted, the Council will have to reconsider the Question of the free grant"

3) Reference is invited to the opinion expressed by the Law Department and the Advocate General re. the formation of a public Trust — (vide paras 26 & 28 of the notes in file No. NL 23-47-26)

Flag 7

In P. 13/11/48 P. 15/11/48

4) Pl put up NL collection q 2-45-(41, 42) also. Sanctioning the grant of the land to the Hindus in the first instance 28/11/48

5) The Collector ML 22-45-42- is forwarding

In 26/1/45 Pr 26-1-45.

6 Sanction was accorded to the resumption of the Blue city mulch in S.O. no 2 9469-70/ML 22-45-41 dated 15-3-46 to the grant of an extent of 2 acres 7 guntas of land Comprised in S.No 105/3, 106 & 107/16 in Doddabyalakere village to Mrs Shantha for the price for which it was acquired, provided he uses it for the charitable purpose mentioned by him and subject to the usual conditions of the resumption in the case of non-fulfilment of the purpose

Flag 'A'

7 Subsequently it was reported that it was not possible to give him the above land as it would interfere with the layout of Kalasipalyam and a recommendation was made to grant him, free of cost, 1 acre 20 guntas of land in Doddabyalakere

Flag B

4)

village, subject to the wishes
the formation of a public Trust Committee of
Donor of his two nominees of the Hl Court
for supervising the proper working of the charities
while conveying absolute to the grantee
the land, free of cost, according to the revised
estate. But observed that it is not
necessary to form a public Trust in
this behalf as proposed by the Hlcl
& As against this observation, the Hlcl
has stated that reasserted their resolution urging
upon the Govt the necessity for the formation
of a public Trust including the Hl Court
as one of the Trustees so that its presence
may be guaranteed & its property would
remain a Trust property & that if the same
is not accepted, the Hlcl will have to
reconsider their question of free grant
This appears to be almost a threat held
out to Govt

9 In this connection, when the question of
the formation of a Trust was proposed by
the Hlcl, it was carefully examined
& consultation with the Law department

about the first at [illegible], as will be clear from the notes of the cases in the Reference Library below. The fully extract is relevant-

10 "If the formation of a Trust in the Isle of Man would in the ordinary course result in funds flowing out of the Island, the Trust must first be formed & the grant of the land must be in favour of that Trust"

I may however add the permission to add the not imposing such a condition is unusual there has been no precedent in the history of the Conveyancing Office the usual condition is that if the property is devoted to any purpose other than that for which it was granted, the Crown may resume the property. That is enough guarantee for the property being used for a charitable purpose the reason why stringent conditions are not usually imposed is not fear to seek either. If the donor's discretion is unduly fettered, it will act as a brake on philanthropy."

11 The matter was then considered by the administrative Branch and it was specifically brought to the [illegible] of the then Minister for

Education & Public Health, Bombay Act to order as follows:—

"No public Trust is necessary in view of the Advocate-General's opinion" (vide para 39 of the order in WP 23-47-39)

12 This has been communicated to the Municipal Council
The present proposal is for a declaration & the orders of Govt in this respect

13 It will be seen from the report of the WP Court dated 28/3/47 (para 17) that in the case of no other piece of land by the Wakf such a condition as the formation of a Trust has been imposed & this is the first instance wherein such a stipulation has been made — vide also the opinion of the Advocate General at A in the previous page Further, no Trust has been formed to which it is proposed to give this land A private benefactor has come forward to do some charitable work and his discretion should not be fettered as it would otherwise act as a brake on good philanthropy as observed by the Advocate-Gen.

14 Having regard to the orders of Govt already communicated, it is for Consideration if the question may be

14

3936/III

7

reopened now under the MC Act
may not be enforced that the orders
already communicated should forthwith
acted upon. A

for orders

new delhi 9/2/48

15) In the light of the above
facts it is for consideration
of the Municipal Council may
be informed as suggested
as 'A' above

Minister
C. Rules & Regs

8
11/2/48

for

THE MINISTER FOR CITY
MUNICIPALITIES AND MUZRAI
No 1137
Date 11-2-1948

16) I would like to know the views
of the Secretary. The Council
before I finally decide

Pleader
2/3/48

for
3/3/48

THE SECRETARY
A 613
OF MYSORE

17) Submitted with a draft
to the Hon. Commr Bangalore city
for approval

18) Approved

18 MAR 1948

4/3 48 Pr Secy To the Hon Commr Bang 17.3.48
15045 of 29-3-48
calls for the opinion of the
Municipal Council

Sub B)

(8)

Dll 1133. Giving back the land acquired from Sri S Khondusa to Doddabeylakkare Villa for charitable purposes –

Letter No L1 C 294/45-46 dated the 29th July 1948 from the Municipal Commissioner, Bangalore City on the above subject

---

1) Submitted with reference to para 16 supra

2) The Ml Commissioner states that the matter was placed before the newly Constituted Ml cl at their meeting held on 28-6-48 and that they resolved that the Trust be formed including the President of the Ml cl as a trustee instead of the Ml Commr. A copy of the resolution is also enclosed. The Ml Commr requests revised orders of Govt in the matter

Dtor 12-8-48 Pr 12.8.48 3) The resolution of the Municipality Ml cl dated 28/6/48 seems to meet the point in this case. After a careful consideration of the several aspects of the case in consultation with the Law Dept, the Govt have come to the

4 Cys "Z"

decision That it is not necessary
to form a Public Trust attach it
as a condition precedent to the grant
of the land in question for achieving the
purpose has been intimated to the
Municipal Council the Pl cl have now
received that the Trust may be formed
including the President (instead of the
Municipal Commissioners as previously) as a
Trustee the Pl cl have given no
reasons pas to why, when in the case
of other lands granted by the Plff for
similar purposes in the city no such
condition as insisted upon, it should
be done so in this case

24) It is significant that when the
Pl cl first resolved upon the grant
of this land to the Defendants,
no such stipulation was made and the
grant was accordingly sanctioned

25) Subsequently this condition was proposed
to be introduced first, after consulting
the Law officer of the Corporation Counsel
held the view that it is not
necessary to form a Trust. Here is

Plf E

Z

Plf A

vide Plf A

* vide paras 21 to 28 of the notes in the file
23-47-25 for
(Plf G)

also no precedent for adopting such a course as would be sufficient if an agreement is obtained from the donor to the effect that the grant of title be removed if he does not fulfil the object for which the land is given to him, as has been done in all such cases. The Advocate-General has observed that if the donor's discretion is unduly fettered, it will act as a brake on philanthropy.

Having regard to all the circumstances of this case, it is for orders if the Hon'ble Minister may not be requested that there are no reasons to reconsider the orders already communicated in the matter in regard to the proposed transfer of the land referred to in the representation dated 28/8/48.

29/8/48

25) A- I agree with the opinion expressed at 'A'. If approved the Council will be informed as proposed in para 4 of the above.

(Illegible)

2/9/48

MINISTER FOR CITY ... AND MUZRAI
No. 910
Dated 29 1948

2 130-1153

26) This subject was considered by the Del Council twice on both the occasions, they are of opinion that formation of the trust is necessary. I do not see any strong reasons to differ from the views of the Del Council Hence it

29/9/48

T E M STER FOR CITY
DEL CAPALIT AS AND BUZRAN
No 910
Date 2-9 1948

30/S

27) Submitted with a draft G6 for appl

Appr
1-10-48

Issue at once
for
13 x 48

To

The Municipal Commissioner, Bombay
(through the Executive Officer)

No G/No L 3959-60/mk 24-48-28 dt 18/10/48

Secretary

B 9/11

BANGALORE CITY MUNICIPALITY

No L1 C 294/45-46

Encl one Resolution copy

MUNICIPAL OFFICES,
BANGALORE CITY

Dated 2nd Janv 1948

FROM

SAFI DARASHAH, Esq, B A,
MUNICIPAL COMMISSIONER,
BANGALORE CITY

REVENUE & REV COURTS 3936 8 JAN 1948 BRANCH

To

Syed Abdul Aleem, Esq, B A,
Secretary to the Government of Mysore,
Revenue Department, Bangalore

8/1/48

REVENUE DEPT 8/1 MYSORE

Re Giving back the land acquired from Mr S Dhondusa in Doddabilakhana village for charitable purposes
---

SIR,

With reference to the above, I have the honor to state that Government Order No L 9289-90/M1 23-47-26 dated 13-9-1947 sanctioning the revised proposal was placed before the Municipal Council at their meeting held on 6-11-1947 for information They recorded the Government Order with the observation that a "Public Trust" be formed as already resolved by the Municipal Council including the Municipal Commissioner as one of the Trustees so that his presence may be a guarantee to see that this land which is given free of cost will remain a Trust Property and the Government addressed accordingly and that if the same is not accepted, the Municipal Council will have to reconsider the question of the free grant A copy of the Council resolution is herein enclosed is herein enclosed for favour of kind reference

2 In the above circumstances, I request that revised orders of Government in the matter may kindly be obtained to the Council resolution dated 6-11-1947 and the same communicated early

I have the honour to be,
Sir,
Your most obedient servant,

Municipal Commissioner

Forwarded with compliments

President

hsr/-

MR 1133

2

Proceedings of the meeting of the Bangalore City Municipal Council dated 6-11-1947

---

31 Government Order No L 9289-19/M1 23-47-26 dated 13-9-1947 sanctioning the grant ~~fnx~~ of one acre and 22 guntas of land in Doddabilakhana village, free of cost, to Mr, S. Dhondoosa, for charitable purposes

---

Resolution - Recorded with the observation that a Public Trust be formed as already resolved by the Municipal Council including the Municipal Commissioner as one of the Trustees so that his presence may be a guarantee to see that this land which is given free of cost will remain a Trust Property and the Government addressed accordingly If the same is not accepted, the Council will have to reconsder the question of the free grant

Sd/- A J Khaleel,
Honorary President

"Copy"

Municipal Commissioner

and 7 Guntas of land. Survey no—

(3

2 enclr

L. 15095

DRAFT 29 3 48

C No
Ref on Pet No } 19 —19
App No

Dis No

Enclosure Dated
Approved on
Copied on by
Examined on by
Signed on Despatched on
Entered in —
Current } Register on
Petition }
Appeal } By
Periodical
Reminded on

WD 0639—GPB—75 000—15 6 45

To

The Municipal Commissioner,
Bangalore City Municipality
Bangalore City

Docket Abstract Bangalore City—

Giving back the land acquired from Mr S D Londusa in Doddabylakkana Village for charitable purposes — Resolution of the Bangalore City Municipal Council dated 6 11 47 re formation of "Public Trust" Etc

Sir,

With reference to your letter No L1C 294/45-46 dated the 2nd January 1948 stating that the Govt Order No L9289-90/Ml 23-47-26 dated the 13th September 1947 sanctioning the revised proposal in connection with the above matter was placed before the Municipal Council at its meeting held on 6 11-1947 and that the Council recorded the Govt Order with the observation that a "Public Trust" be formed as already resolved by the Municipal Council Etc I am directed to observe that sanction of Govt was accorded to the resolution of the Bangalore City Municipal Council dated 18-2-1946 in Govt No L9469-70/Ml 22-45-41 & 15 3 46 to the grant of 2 acres and 7 guntas of land in Survey Nos

4)

105/3, 106 + 107/16 of Doddabyelakkana village of Mr Dhanuka for the price for which it was acquired, provided he uses it for charitable purposes mentioned by him and subject to the usual conditions of the resumption of the land in case of non-fulfilment of the purpose

2 Subsequently, it was reported that it was not possible to give him the land in question as it would interfere with the layout of Kalabhyam Extension and a recommendation was made to give him, free of cost, 1 acre & 26 guntas of land in the Doddabyelakkana village, subject to the condition of formation of a Public Trust consisting of the donor & two nominees of the ML Commr for supervising the proper working of the charity. While conveying sanction to the grant of the land, free of cost, according to the revised extent, Govt observed that it is not necessary to form a Public Trust in this behalf as proposed by the Municipal Council ~~regarding the donation of the ML dd~~

2 As against the above order, the ML dd have now reiterated their resolution about the necessity for the formation of a Public Trust including the ML Commr as one of the Trustees so that his presence may be a guarantee for the proper working of the charities. I am to observe in this connection that this point

MM 1132

5

was carefully examined by the Govt in consultation with the Law Department and orders were issued to the effect that the formation of a Trust is not necessary further there has been no precedent in the history of the Bangalore City MC Cl, the usual limits and directions in the Statutes being that if the property is devoted to any purpose other than that for which it was granted the Mcty may resume the property same which would itself furnish a sufficient guarantee against any diversion

wherein the grant stated the purpose was not carried out

I am to request that the views of the Mcty may be obtained on the above and forwarded for the consideration of Govt

I have &c

Sd

for Secretary to Govt

Revenue Dept

10/3/48

ML 1133

(7)

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L. 15095

General and Revenue Secretariat,

Dated Bangalore, 29 March *194*8

FROM

The Secretary to the Government of
His Highness the Maharaja of Mysore

To

The Municipal Commissioner,
Bangalore City Municipality,
Bangalore City

SIR,

Subject Giving back the land acquired from Mr S Dhondusa in Doddabylakhana village for charitable purposes- Resolution of the Bangalore City Municipal Council dated 6th November 1947 re formation of 'Public Trust' etc

- - - - -

With reference to your letter No L1C 294/45-46 dated the 2nd January 1948 stating that the Government Order No L 9289-90/M1 23-47-26 dated the 13th September 1947 sanctioning the revised proposal in connection with the above matter was placed before the Municipal Council at its meeting held on 6th November 1947 and that the Council recorded the Government Order with the observation that a 'Public Trust' be formed as already resolved by the Municipal Council etc , I am directed to observe that sanction of Government was accorded to the resolution of the Bangalore City Municipal Council dated 18th February 1946 in Government Order No L 9469-70/M1 22-45-41 dated 15th March 1946 to the grant of 2 acres and 7 guntas of land in survey numbers 105/3, 106 and 107/16 of Doddabylakhana village to Mr Dhondusa for the price for which it was acquired, provided he uses it for charitable purposes mentioned by him and subject to the ~~normal~~ usual conditions of the resumption of the land in cases of non-fulfilment of the purpose

2 Subsequently, it was reported that it was not possible to give him the land in question as it would interfere with the layout of Kalas-palyam extension and a recommendation was made to give him, free of cost one acre and 26 guntas of land in the Doddabylakhana village, subject to the condition of formation of a Public Trust consisting of the donor and his two nominees and the Municipal Commissioner for supervising the proper working of the ~~xxxxxxx~~ charity While conveying sanction to the grant of land free of cost, according to the revised extent, Government observed

8)

that it is not necessary to form a Public Trust in this behalf as proposed by the Municipal Council

3 As against the above orders, the Municipal Council have now reiterated their resolution about the necessity for the formation of a Public Trust including the Municipal Commissioner as one of the trustees so that his presence may be a guarantee for the proper working of the charities. I am to observe, inthis connection that this point was carefully examined by the Government in consultation with the Law Department and orders were issued to the effect that the formation of a trust is not necessary. Further there has been no precedent in the history of the Bangalore City Municipal Council wherein the grant of land for such non-charitable purposes was made conditional on the formation of a Trust, the usual condition laid down in other cases being that if the property is diverted to any purpose other than that for which it was granted, the Municipality may resume the same which would itself provide a sufficient guarantee against any diversion

4 In the above circumstances, I am to request that the considered view of this newly constituted Municipal Council may be obtained and forwarded for the orders of Government

I have the honour to be,

Sir,

Your most obedient servant,

For Secretary to Government,
Revenue Department

RVL 11 25 (9

BANGALORE CITY MUNICIPALITY

GENERAL & REVENUE SECRETARIAT
9 AUG 1948
MUNICIPAL BRANCH

No L1 C 294/45-46

Encl one Resolution copy

MUNICIPAL OFFICES,
BANGALORE CITY

Dated 29th July 1948

FROM

A S Khaleel, Esq , B A , B L ,
~~SAFI DARASHAH, Esq, B A,~~
MUNICIPAL COMMISSIONER,
BANGALORE CITY

To

Rd 24-48-27

Syed Abdul Aleem, Esq, B A ,
Secretary to the Government of Mysore,
Revenue Department, Bangalore

8/8

SIR,

Subject - Giving back the land acquired from Mr S Dhondusa in Doddabilkhana village for charitable purposes Resolution of the Bangalore City Municipal Council dated 6th November 1947 re formation of 'Public Trust' etc

---

With reference to your letter No L 15095 dated 29-3-1948 and subsequent reminder No L 500 dated 13-7-1948 calling for submission of the considered views of of this newly constituted Municipal Council on the above subject, I have the honour to state that the letter under advertence was placed before the Municipal Council at their meeting held on 28-6-1948 for consideration wherein they resolved that the Trust be formed including the President as a trustee instead of the Municipal Commissioner

2 A copy of the said resolution is herein enclosed for favour of kind reference I request that revised orders of Government in the matter may kindly be obtained and the same communicated early

I have the honour to be,
Sir,
Your most obedient servant,

Municipal Commissioner

Forwarded with compliments

Honorary President

hsr/-

(11)

(10)

Proceedings of the meeting of the Bangalore City Municipal Council, dated 28-6-1948

11 Deferred subject No 22/24-5-1948 - Letter No 15095 dated 29-3-1948 from the Revenue Secretary to Government of Mysore calling for the considered views of the newly constituted Council in regard to the formation of a Public Trust including the Municipal Commissioner in connection with the grant of land measuring 1 acre and 26 guntas in Doddabylakhana village to Mr S Dhondusa free of cost, for charitable purposes.

--

Sri R Anantharaman speaking said that the President should be a trustee instead of the Municipal Commissioner

Resolution - The opinion of this Council in regard to this matter is that the Trust may be formed including the President as a trustee instead of the Municipal Commissioner

Sd K Shamaraja Iyengar,
Honorary President

"Copy"

b Amadamang

Municipal Commissioner

G R S App F VI—G 2]

SUBJECT

(11)

3 copies

Diary No of letter replied to 11353

Section Mk

File No 2448

Serial No 28

General and Revenue Secretariat

( )

the 194

Proceedings of the Government of His Highness the Maharaja of Mysore

Date of issue 18/10/48 194

Read—

Signed by Sri [illegible]

GO No L 9289-90/Mk 23-47-26 dated the 13th September 1947 sanctioning the proposal of the Bangalore City Municipal Council dated the 23rd Sep 1946 to the effect that one acre and 26 guntas of land in Doddabyalakhana Village, Bangalore Tq be granted free of cost, to Sri S Dhondusa for charitable purposes, with the observation that it is not necessary to form a Public Trust in this

May this be—

(i) printed?

(ii) treated as a Standing Order?

(iii) published in the Gazette English Part?

(iv) translated?

(v) placed at the disposal of the Press?

(vi) published in the Gazette Kannada Part?

Order thereon—No

under sec 41(3) of the city Municipal Act 1933

behalf as proposed by
the M C C

2 Correspondence ending
with letter No L/C 294/45-46
dated the 29th July 1948 from the M/ Comr,
requesting sanction of Govt
for terms mentioned therein, to
the ~~undermentioned revised~~
resolution of the Bangalore city M C C
dated the 28th June 1948 ~~on the subject~~
~~of the opinion of this Council in regard to~~
~~this matter is that the~~ a Trust may be formed
including the President as a Trustee instead
of the Municipal Commissioner ~~of the~~
subserving the work of the Charities referred to in the G.O. read above

---

List of Enclosures

G O No L 3959-60 dated
18/10/48
On a reconsideration of the matter, Govt are pleased to sanction the
resolution of the M C C dated the 28th June
1948 ~~referred to in G.O. above~~.

Copied by

Examined by

(In modification of the order ~~of~~ 13 of 7 read in para 1 above,
the Govr and two nominees will be the other members of the
as already proposed)

for Secy to Govt

To
The M C Commr Bangalore City (thro the Dy
The Comptroller to Govt

Re Dept
Re 2 wrgs

in regard to the
Trustees of the Trusts
proposed
in connection with the Charitable

WD 04162—GPB—60 000

JV

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

READ:-

Government Order No.L.9289-90/Ml.23-47-26 dated the 13th September 1947 sanctioning the proposal of the Bangalore City Municipal Council dated the 23rd September 1946 to the effect that one acre and 26 guntas of land in Doddabylakhana village, Bangalore Taluk, be granted, free of cost, under Section 41(2) of the City Municipalities Act, 1933, to Sri S.Dhondusa for charitable purposes, with the observation that it is not necessary to form a Public Trust in this behalf as proposed by the Municipal Council.

2. Correspondence ending with letter No.L.1-C 294/45-46 dated the 29th July 1948 from the Municipal Commissioner, Bangalore City, requesting sanction of Government for reasons mentioned therein to the resolution of the Bangalore City Municipal Council dated the 28th June 1948 that a Trust may be formed including the President as a Trustee instead of the Municipal Commissioner for supervising the work of the charities referred to in the Government Order read above.

ORDER NO: L 3959-60/Ml 24-48-28

Dated, Bangalore, the 18-10-48

Having regard to the resolutions of the Municipal Council dated 6th November 1947 and 28th June 1948 in this behalf, Government are pleased to sanction in modification of their orders dated 13-9-47 read above the resolution of the Municipal Council dated the 28th June 1948 in regard to the formation of the Trust as proposed in connection with the grant of the land referred to above.

for Revenue Secretary to Government

To

The Municipal Commissioner, Bangalore City Municipality, (Through the President).

" Comptroller to Government.